

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

U.S. BANK, NATIONAL ASSOCIATION, in its  
capacity as Trustee, JOSHUA N. TERRY, AND  
ACIS CAPITAL MANAGEMENT, L.P.,

Plaintiffs,

-against-

THE CHARITABLE DONOR ADVISED FUND,  
L.P., CLO HOLDCO LTD., AND NEXPOINT  
DIVERSIFIED REAL ESTATE TRUST,

Defendants.

**Case No. 1:21-cv-11059 (GHW)**

**NOTICE OF MOTION TO DISMISS**

**PLEASE TAKE NOTICE**, that upon the accompanying Memorandum of Law and the Defendant NexPoint Diversified Real Estate Trust hereby moves this Court before the Honorable Gregory H. Woods, at the United States Courthouse, 500 Pearl Street, New York, New York 10007, for an order, pursuant to Federal Rules of Civil Procedure 12(b) (1), (6) and 17 (a), dismissing the Amended Complaint in its entirety as to this Defendant, and granting such other and further relief as the Court deems just and proper.

Dated: May 6, 2022

Respectfully submitted,

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